

(g) The agency may request that the Advisory Committee defer acting on an application at that Advisory Committee meeting if Department staff fails to provide the agency with the materials described, and within the timeframes provided, in paragraphs (f)(3) and (f)(5) of this section. If the Department staff's failure to send the materials in accordance with the timeframe described in paragraph (f)(3) or (f)(5) of this section is due to the failure of the agency to submit reports to the Department, other information the Secretary requested, or its response to the draft analysis, by the deadline established by the Secretary, the agency forfeits its right to request a deferral of its application.

(Authority: 20 U.S.C. 1099b)

§ 602.33 Procedures for review of agencies during the period of recognition.

(a) Department staff may review the compliance of a recognized agency with the criteria for recognition at any time—

(1) At the request of the Advisory Committee; or

(2) Based on any information that, as determined by Department staff, appears credible and raises issues relevant to recognition.

(b) The review may include, but need not be limited to, any of the activities described in § 602.32(b) and (d).

(c) If, in the course of the review, and after provision to the agency of the documentation concerning the inquiry and consultation with the agency, Department staff notes that one or more deficiencies may exist in the agency's compliance with the criteria for recognition or in the agency's effective application of those criteria, it—

(1) Prepares a written draft analysis of the agency's compliance with the criteria of concern. The draft analysis reflects the results of the review, and includes a recommendation regarding what action to take with respect to recognition. Possible recommendations include, but are not limited to, a recommendation to limit, suspend, or terminate recognition, or require the submission of a compliance report and to continue recognition pending a final decision on compliance;

(2) Sends the draft analysis including any identified areas of non-compliance, and a proposed recognition recommendation, and all supporting documentation to the agency; and

(3) Invites the agency to provide a written response to the draft analysis and proposed recognition recommendation, specifying a deadline that provides at least 30 days for the agency's response.

(d) If, after review of the agency's response to the draft analysis, Department staff concludes that the agency has demonstrated compliance with the criteria for recognition, the staff notifies the agency in writing of the results of the review. If the review was requested by the Advisory Committee, staff also provides the Advisory Committee with the results of the review.

(e) If, after review of the agency's response to the draft analysis, Department staff concludes that the agency has not demonstrated compliance, the staff—

(1) Notifies the agency that the draft analysis will be finalized for presentation to the Advisory Committee;

(2) Publishes a notice in the FEDERAL REGISTER including, if practicable, an invitation to the public to comment on the agency's compliance with the criteria in question and establishing a deadline for receipt of public comment;

(3) Provides the agency with a copy of all public comments received and, if practicable, invites a written response from the agency;

(4) Finalizes the staff analysis as necessary to reflect its review of any agency response and any public comment received; and

(5) Provides to the agency, no later than seven days before the Advisory Committee meeting, the final staff analysis and a recognition recommendation and any other information provided to the Advisory Committee under § 602.34(c).

(f) The Advisory Committee reviews the matter in accordance with § 602.34.

(Authority: 20 U.S.C. 1099b)

REVIEW BY THE NATIONAL ADVISORY
COMMITTEE ON INSTITUTIONAL QUALITY
AND INTEGRITY**§ 602.34 Advisory Committee meetings.**

(a) Department staff submits a proposed schedule to the Chairperson of the Advisory Committee based on anticipated completion of staff analyses.

(b) The Chairperson of the Advisory Committee establishes an agenda for the next meeting and, in accordance with the Federal Advisory Committee Act, presents it to the Designated Federal Official for approval.

(c) Before the Advisory Committee meeting, Department staff provides the Advisory Committee with—

(1) The agency's application for recognition or for expansion of scope, the agency's compliance report, or the agency's report submitted under § 602.31(d), and supporting documentation;

(2) The final Department staff analysis of the agency developed in accordance with § 602.32 or § 602.33, and any supporting documentation;

(3) At the request of the agency, the agency's response to the draft analysis;

(4) Any written third-party comments the Department received about the agency on or before the established deadline;

(5) Any agency response to third-party comments; and

(6) Any other information Department staff relied upon in developing its analysis.

(d) At least 30 days before the Advisory Committee meeting, the Department publishes a notice of the meeting in the FEDERAL REGISTER inviting interested parties, including those who submitted third-party comments concerning the agency's compliance with the criteria for recognition, to make oral presentations before the Advisory Committee.

(e) The Advisory Committee considers the materials provided under paragraph (c) of this section in a public meeting and invites Department staff, the agency, and other interested parties to make oral presentations during the meeting. A transcript is made of all Advisory Committee meetings.

(f) The written motion adopted by the Advisory Committee regarding

each agency's recognition will be made available during the Advisory Committee meeting. The Department will provide each agency, upon request, with a copy of the motion on recognition at the meeting. Each agency that was reviewed will be sent an electronic copy of the motion relative to that agency as soon as practicable after the meeting.

(g) After each meeting of the Advisory Committee at which a review of agencies occurs, the Advisory Committee forwards to the senior Department official its recommendation with respect to each agency, which may include, but is not limited to, a recommendation to approve, deny, limit, suspend, or terminate recognition, to grant or deny a request for expansion of scope, to revise or affirm the scope of the agency, or to require the agency to submit a compliance report and to continue recognition pending a final decision on compliance.

(Authority: 20 U.S.C. 1099b)

§ 602.35 Responding to the Advisory Committee's recommendation.

(a) Within ten days following the Advisory Committee meeting, the agency and Department staff may submit written comments to the senior Department official on the Advisory Committee's recommendation. The agency must simultaneously submit a copy of its written comments, if any, to Department staff. Department staff must simultaneously submit a copy of its written comments, if any, to the agency.

(b) Comments must be limited to—

(1) Any Advisory Committee recommendation that the agency or Department staff believes is not supported by the record;

(2) Any incomplete Advisory Committee recommendation based on the agency's application; and

(3) The inclusion of any recommendation or draft proposed decision for the senior Department official's consideration.

(c)(1) Neither the Department staff nor the agency may submit additional documentary evidence with its comments unless the Advisory Committee's recognition recommendation proposes finding the agency noncompliant